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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2012-0042]

RIN 0579-AD69

Importation of Fresh Beans, Shelled or in Pods, From Jordan into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of commercial shipments of fresh beans, shelled or in pods (French, green, snap, and string), from Jordan into the continental United States. As a condition of entry, the beans would have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. The beans would also be required to be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests. This action would allow for the importation of fresh beans, shelled or in pods, from Jordan into the continental United States while continuing to provide protection against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to
<http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0042-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0042, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0042> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Coordination Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737-1231; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-58, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Currently, we do not allow the importation of fresh beans (Phaseolus vulgaris L.), shelled or in pods (French, green, snap, and string), from Jordan into the continental United States. The

Animal and Plant Health Inspection Service (APHIS) received a request from the national plant protection organization (NPPO) of Jordan to allow such beans to be imported from Jordan into the continental United States (the lower 48 States, the District of Columbia, and Alaska). As part of our evaluation of Jordan's request, we prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and the risk management document may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

The PRA, titled “Importation of Fresh Beans (Phaseolus vulgaris L.), Shelled or in Pods, from Jordan into the Continental United States: A Qualitative, Pathway-Initiated Risk Assessment” (February 2011), evaluates the risks associated with the importation of fresh beans into the continental United States from Jordan. The risk management document lists the phytosanitary measures necessary to ensure the safe importation into the United States of fresh beans from Jordan.

The PRA identifies seven quarantine pests that could be introduced into the United States in consignments of fresh beans from Jordan. A quarantine pest is defined in § 319.56-2 as “a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.” In the PRA, the likelihood and consequences of introducing these pests to the United States are considered. Five of the pests are considered to have high pest risk potentials, and two, medium pest risk potentials, as shown in the following chart:

List of quarantine pests

Type	Organism	Taxonomy	Pest Risk Potential
Arthropods	<u>Chrysodeixis chalcites</u> (Esper)	Lepidoptera: Noctuidae	High
	<u>Helicoverpa armigera</u> (Hübner)	Lepidoptera: Noctuidae	High
	<u>Liriomyza huidobrensis</u> Blanchard	Diptera: Agromyzidae	High
	<u>Maconellicoccus hirsutus</u> (Green)	Hemiptera: Pseudococcidae	High
	<u>Spodoptera littoralis</u> (Boisduval)	Lepidoptera: Noctuidae	High
	<u>Lampides boeticus</u> Linnaeus	Lepidoptera: Lycaenidae	Medium
Fungus	<u>Phoma exigua</u> var. <u>diversispora</u> (Bubák) Boerema	Ascomycete: Mitosporic fungi	Medium

For pests with high pest risk potential, specific phytosanitary measures, in addition to standard port-of-entry inspections of the commodity being imported into the United States, are strongly recommended. Such additional measures may also be necessary for pests with medium pest risk potential.

Based on the findings of our PRA and risk management document, we are proposing to amend the regulations to allow the importation of commercial shipments of fresh beans (Phaseolus vulgaris L.), shelled or in pods, from Jordan into the continental United States, subject to a systems approach.

The systems approach would require that the commodity be packed in facilities that are registered with and approved by the NPPO of Jordan. Each shipping box would have to be marked with the identity of the packing facility so that shipments can be traced back to the facility in the event of the discovery of a pest.

The beans would have to be washed in potable water, which will assist in removing any insects feeding on individual beans.

We would require the beans to be inspected by the NPPO of Jordan and found to be free of the quarantine pests listed above before export to the United States. Chrysodeixis chalcites,

Helicoverpa armigera, Lampides boeticus, and Spodoptera littoralis cause obvious feeding damage and frass on beans, allowing beans infested with these pests to be eliminated during packing. These four caterpillar pests are also relatively large in their adult forms and can easily be seen during inspection. The pink hibiscus mealy bug, Maconellicoccus hirsutus, has a grayish-pink body covered with mealy white wax and white wax filaments projecting from the body, making the pest easily visible on infested beans. It also causes obvious damage. Liriomyza huidobrensis is a leafminer whose mines are easily seen on bean leaves and pods; therefore, beans with damage caused by this pest can be culled during packing.

The remaining pest, the fungus Phoma exigua var. diversispora, also causes conspicuous damage to fresh beans in the form of grayish to brownish, concentric spots, 1-3 centimeters in diameter, which may later show concentric rings of small black pycnidia. Based on these conspicuous symptoms, Phoma exigua var. diversispora will be easy to recognize when beans are inspected by the NPPO of Jordan. The fungus may also infect seeds. Infected seed nearly always fail to germinate or result in post-emergence killing of the plants by the fungus. Since the intended use of the imported commodity is consumption and it will be exported in the form of fresh beans, immature seeds will have no germination capacity, which eliminates the seed transmission risk.

To ensure that early instars of the four caterpillar pests referred to above are not present internally in the bean pods and missed during the visual inspection, each bean would have to either be cut into chevrons or pieces that do not exceed 2 centimeters in length, or shredded or split the length of the bean pod in pieces not exceeding 8 centimeters in length and 8.5 millimeters in diameter. Cutting or splitting the beans would allow for the detection of larvae

of pests of the order Lepidoptera during inspection, while shredding would both expose and destroy any internal feeding insects.

Only commercial consignments of fresh beans would be allowed to be imported from Jordan. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Consignments of fresh beans would also need to be accompanied by a phytosanitary certificate issued by Jordan's NPPO attesting that the proposed requirements have been met and that the consignment was inspected and found free of quarantine pests.

We would add these requirements to the regulations in a new § 319.56-59.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER

INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

The analysis examines the expected economic impact on U.S. small entities of our proposal to allow importation of fresh beans, shelled or in pods (French, green, snap, and string) from Jordan into the continental United States.

The Small Business Administration's small-entity standard for U.S. farms that produce fresh beans is annual receipts of not more than \$750,000. In 2007, the average market value of sales by the 15,654 U.S. farms that produced snap beans for the fresh market was about \$25,400, well below the small-entity standard.

Jordan expects to export 200 metric tons of fresh beans to the continental United States annually. This quantity is equivalent to less than one-tenth of 1 percent of U.S. fresh snap bean production. While most entities that may be affected by the proposed rule are small, the impact of the rule would be minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow fresh beans, shelled or in pods, to be imported into the United States from Jordan. If this proposed rule is adopted, State and local laws and regulations regarding fresh beans imported under this rule would be preempted while the fruit is in foreign commerce. Fresh beans are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-

case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2012-0042. Please send a copy of your comments to: (1) Docket No. APHIS-2012-0042, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the fruits and vegetables regulations to allow the importation of commercial shipments of fresh beans, shelled or in pods (French, green, snap, and string), from Jordan into the continental United States. As a condition of entry, the beans would have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. The beans would also be required to be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests. Implementing this rulemaking

would require packinghouse registration and shipping box labeling, as well as the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.6 hours per response.

Respondents: NPPO of Jordan and U.S. importers.

Estimated annual number of respondents: 6.

Estimated annual number of responses per respondent: 4.17.

Estimated annual number of responses: 25.

Estimated total annual burden on respondents: 15 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319--FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 319.56-59 is added to read as follows:

§ 319.56-59 Fresh beans, shelled or in pods, from Jordan.

Fresh beans (Phaseolus vulgaris L.), shelled or in pods (French, green, snap, and string), may be imported into the continental United States from Jordan only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: Chrysodeixis chalcites, Helicoverpa armígera, Lampides boeticus

Liriomyza huidobrensis, Maconellicoccus hirsutus, Phoma exigua var. diversispora, and Spodoptera littoralis.

(a) Packinghouse requirements. The beans must be packed in packing facilities that are approved and registered with Jordan's national plant protection organization (NPPO). Each shipping box must be marked with the identity of the packing facility.

(b) Post-harvest processing. The beans must be washed in potable water. Each bean pod must be either cut into chevrons or pieces that do not exceed 2 centimeters in length, or shredded or split the length of the bean pod. Split or shredded bean pod pieces may not exceed 8 centimeters in length and 8.5 millimeters in diameter.

(c) Commercial consignments. The beans must be imported as commercial consignments only.

(d) Phytosanitary certificate. Each consignment of fresh beans must be accompanied by a phytosanitary certificate issued by Jordan's NPPO attesting that the conditions of this section have been met and that the consignment has been inspected and found free of the pests listed in this section.

Done in Washington, DC, this 26th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.